

*City of Las Vegas***AGENDA MEMO****PLANNING COMMISSION MEETING DATE: AUGUST 13, 2009****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: ABEYANCE - SDR-34464 - APPLICANT: TOWER REALTY AND DEVELOPMENT, LLC - OWNER: REGAL PLAZA PAD D, LLC**

**** CONDITIONS ******STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:**Planning and Development**

1. Conformance to the Conditions of Approval for Site Development Plan Review (SDR-20711) shall be required, except as amended herein.
2. This approval shall be void two years from the date of final approval, unless a building permit has been issued for the principal building on the site. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. All development shall be in conformance with the site plan, date stamped 06/04/09, and the landscape plan, and building elevations, date stamped 05/12/09, except as amended by conditions herein.
4. A Waiver from Title 19.14.040 is hereby approved, to allow no landscaping or screening for a utility box in excess of 27 cubic feet located within the perimeter landscape buffer at the northeast corner of the site along Craig Road.
5. The trash enclosure shall comply with all requirements of Title 19.08.
6. The handicap accessible parking spaces shall be revised to meet the minimum requirements of Title 19.10, including the requirement for access aisle on both sides of the spaces.
7. A technical landscape plan, signed and sealed by a Registered Architect, Landscape Architect, Residential Designer or Civil Engineer, must be submitted prior to or at the same time application is made for a building permit. A permanent underground sprinkler system is required, and shall be permanently maintained in a satisfactory manner; the landscape plan shall include irrigation specifications. The technical landscape plan shall include the following changes from the conceptual landscape plan: Street trees along Craig Road shall be palm trees with a minimum height of 15 feet from the ground to the top of the fronds, as approved in Site Development Plan Review (SDR-20711).

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8. Pre-planting and post-planting landscape inspections are required to ensure the appropriate plant material, location, size of planters, and landscape plans are being utilized. The Planning and Development Department must be contacted to schedule an inspection prior to the start of the landscape installation and after the landscape installation is completed. A certificate of occupancy will not be issued or the final inspection will not be approved until the landscape inspections have been completed.
9. Reflective glazing at the pedestrian level is prohibited. Glazing above the pedestrian level shall be limited to a maximum reflectance rating of 22% (as defined by the National Institute of Standards and Technology).
10. All mechanical equipment, air conditioners and trash areas shall be fully screened in views from the abutting streets.
11. All utility boxes exceeding 27 cubic feet in size shall meet the standards of LVMC Title 19.12.040.
12. Parking lot lighting standards shall be no more than 30 feet in height and shall utilize downward-directed lights with full cut-off luminaires. Lighting on the exterior of buildings shall be shielded and shall be downward-directed. Non-residential property lighting shall be directed away from residential property or screened, and shall not create fugitive lighting on adjacent properties.
13. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.
14. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

Public Works

15. No new permanent structures or landscaping taller than 3 feet shall be allowed within the existing 20 foot public sewer easement granted by the Regal Plaza Commercial Subdivision, Book 90, Page 27.
16. An update to the previously approved Drainage Plan and Technical Drainage Study must be submitted to and approved by the Department of Public Works prior to the issuance of any grading or building permits or the submittal of any construction drawings, whichever may occur first. Provide and improve all drainageways as recommended in the approved drainage plan/study.
17. Site development to comply with all applicable conditions of approval for SDR-20711 and all other site-related actions.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This request for a Major Amendment to an approved Site Development Plan Review (SDR-20711) is the result of a failed construction inspection, which indicated that the site was not constructed per the approved Site Development Plan Review, civil improvement plans or the building permit. The site, as built, added a drive-through for a restaurant, moved the building approximately eight feet to the south and 1.5 feet to the west, and added approximately 66 square feet of floor area for a fire riser room and drive-through window area. The height of the building has increased by one foot. A large utility box located within the north landscape buffer is not screened as required, is elevated above the sidewalk, and is prominently visible at the front of the site, adjacent to Craig Road. This Amendment is necessary to allow the issuance of a certificate of occupancy for the building. If denied, the applicant would be required to bring the site in to compliance with the previously approved Site Development Plan Review, civil improvement plans and building permit.

Issues:

- The site was not constructed per the approved Site Development Plan Review, nor was it constructed per the approved civil improvement plans or the building permit.
- The added drive-through does not function very well in that larger vehicles will have some difficulty navigating the turns without hitting the curbs. The exit for the drive-through is located at the northwest corner of the building, and creates a potentially unsafe condition by channeling additional vehicles into a dead-end parking area that does not provide adequate space to turn a vehicle around unless there is an open parking space to facilitate the maneuver.
- The Waiver of the screening for the utility box cannot be supported as the box is prominently visible from the public right-of-way, and the proposed screening of the box is not adequate to meet the minimum requirements of Title 19.12.040.

BACKGROUND INFORMATION

| <i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i> | |
|---|---|
| 11/17/99 | The City Council approved a Special Use Permit (U-102-99) for the sale of packaged liquor in conjunction with a proposed 26,498 square foot grocery store on property located at the southeast corner of Jones Boulevard and Craig Road. |
| 05/27/04 | The Planning Commission approved a request for a Site Development Plan Review (SDR-4294) with Waivers of Landscaping, Pad Location and Covered Trash Enclosure Requirements for a proposed retail building on 0.64 acres adjacent to the south side of Craig Road, approximately 370 east of Jones Boulevard. |
| 12/28/06 | A deed was recorded for change of ownership. |

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| | |
|----------|---|
| 05/10/07 | The Planning Commission approved a request for a Site Development Plan Review (SDR-20711) for a 5,500 square foot commercial building with a Waiver to allow perimeter landscape buffer widths of zero feet on the south and east property lines where eight feet is the minimum required on 0.55 acres on the south side of Craig Road. Staff recommended approval. |
| 06/25/09 | The Planning Commission, at the request of the applicant, held in abeyance a request for a Major Amendment (SDR-34464) to an approved Site Development Plan Review (SDR-20711) for the addition of a restaurant with drive-through to an existing 5,566 square-foot retail building with a Waiver of Title 19.12.040(e) utility box and installation screening standards on 8.16 acres at the southeast corner of Craig Road and Jones Boulevard. |
| 07/09/09 | The Planning Commission held in abeyance a request for a Major Amendment (SDR-34464) to an approved Site Development Plan Review (SDR-20711) for the addition of a restaurant with drive-through to an existing 5,566 square-foot retail building with a Waiver of Title 19.12.040(e) utility box and installation screening standards on 8.16 acres at the southeast corner of Craig Road and Jones Boulevard. The abeyance was to allow the applicant to submit revised plans for staff review. |

| <i>Related Building Permits/Business Licenses</i> | |
|--|--|
| 04/15/08 | Building permits were issued for an office/retail shell building (#107695), on-site improvements (#107696) and a trash enclosure (#107697) at 5801 W. Craig Road. The permit has not been finalized. |
| 06/17/08 | A building permit (#113507) was issued for a tenant improvement at 5801 W. Craig Road, suite #130. The permit has not been finalized. |
| 08/18/08 | An application for a building permit (#122386) was received for a tenant improvement at 5801 W. Craig Road, suite #110. The application is currently under review. |

| <i>Pre-Application Meeting</i> | |
|---------------------------------------|---|
| 04/08/09 | <p>A pre-application meeting for a Major Amendment to an existing Site Development Plan Review was held to discuss the following issues:</p> <ul style="list-style-type: none"> • Revised parking calculations required. Handicap parking spaces to comply with Title 19.10 standards. • Exceptions will be required for required landscape buffer planting materials, parking lot islands and planting materials and parking lot screening requirements. • The preferred location for the trash enclosure is the location approved by SDR-20711 |

| <i>Neighborhood Meeting</i> | |
|--|--|
| A neighborhood meeting was neither required nor held for this application. | |

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| Field Check | |
|--------------------|---|
| 05/21/09 | A field check was conducted by staff. The existing building was not constructed in accordance with the approved building permit plans. The building remains vacant, as no certificate of occupancy has been issued. |

| Details of Application Request | |
|---------------------------------------|------------|
| Site Area | |
| Gross Acres | 0.64 Acres |

| Surrounding Property | Existing Land Use | Planned Land Use | Existing Zoning |
|-----------------------------|--------------------------|---------------------------------------|--|
| Subject Property | Shopping Center | SC (Service Commercial) | C-1 (Limited Commercial) |
| North | Shopping Center | SC (Service Commercial) | C-1 (Limited Commercial) |
| South | Single-Family Residences | DR (Desert Rural Density Residential) | R-PD2 (Residential Planned Development – 2 Units per Acre) |
| East | Single-Family Residences | DR (Desert Rural Density Residential) | R-E (Residence Estates) |
| West | Undeveloped | SC (Service Commercial) | R-E (Residence Estates) |

| Special Districts/Zones | Yes | No | Compliance |
|---|------------|-----------|-------------------|
| Special Area Plan | | X | N/A |
| Special Districts/Zones | Yes | No | Compliance |
| Special Purpose and Overlay Districts | | | |
| A-O Airport Overlay District (140 Feet) | X | | Y |
| Trails | | X | N/A |
| Rural Preservation Overlay District | | X | N/A |
| Development Impact Notification Assessment | | X | N/A |
| Project of Regional Significance | | X | N/A |

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following standards apply:

| Standard | Required/Allowed | Provided | Compliance |
|-----------------|-------------------------|-----------------|-------------------|
| Min. Lot Size | N/A | 28,058 SF | Y |
| Min. Lot Width | 100 Feet | 170 Feet | Y |

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| | | | |
|----------------------|--|------------------|--------------|
| Min. Setbacks | | | |
| • Front | 20 Feet | 24 Feet | Y |
| • Side | 10 Feet | 35 Feet | Y |
| • Corner | 15 Feet | N/A Feet | N/A |
| • Rear | 20 Feet | 27 Feet | Y |
| Max. Lot Coverage | 50% | 20% | Y |
| Max. Building Height | N/A | 23 Feet | Y |
| Trash Enclosure | Screened, Gated, w/ a Roof or Trellis | Not Indicated | By Condition |
| Mech. Equipment | Screened | Not Indicated | By Condition |

Pursuant to Title 19.08.060, the following Residential Adjacency Standards apply:

| <i>Residential Adjacency Standards</i> | <i>Required/Allowed</i> | <i>Provided</i> | <i>Compliance</i> |
|---|--------------------------------|------------------------|--------------------------|
| 3:1 proximity slope | 69 Feet | 95 Feet | Y |
| Adjacent development matching setback | 35 Feet | 95 Feet | Y |
| Trash Enclosure | 50 Feet | 65 Feet | Y |

Pursuant to Title 19.10 and 19.12, the following standards apply:

| <i>Landscaping and Open Space Standards</i> | | | | |
|--|--|---------------------|------------------------|--------------------------|
| <i>Standards</i> | <i>Required</i> | | <i>Provided</i> | <i>Compliance</i> |
| | <i>Ratio</i> | <i>Trees</i> | | |
| Parking Area | 1 Tree / 6 Spaces, plus 1 at the end of each row of spaces | 10 Trees | 10 Trees | Y |
| Buffer: North | 1 Tree / 30 Linear Feet | 6 Trees | 6 Trees | Y |
| TOTAL | | 16 Trees | 16 Trees | Y |
| Min. Zone Width North | 15 Feet | | 15 Feet | Y |
| Wall Height | 6 to 8 Feet Adjacent to Residential | | 6 feet | Y |

Pursuant to Title 19.10, the following parking standards apply:

| Parking Requirement | | | | | | | |
|---------------------|-------------------------------------|---------------|---------|--------------|----------|--------------|------------|
| Use | Gross Floor Area or Number of Units | Required | | | Provided | | Compliance |
| | | Parking Ratio | Parking | | Parking | | |
| | | | Regular | Handi-capped | Regular | Handi-capped | |
| Shopping Center | 75,850 SF | 1:250 | 296 | 8 | 399 | 17 | Y |
| TOTAL | | | 304 | | 416 | | Y |
| Loading Spaces | 75,850 SF | | 4 | | 6 | | Y |

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| Waivers | | |
|---|--|-----------------------------|
| Requirement | Request | Staff Recommendation |
| Utility boxes and above-ground utility installations in excess of 27 cubic feet shall be set back a sufficient distance so that a minimum of three feet of landscaping separates the utility structure from the public street right-of-way or sidewalk, whichever is nearer to the structures. The landscaping must include tall grasses and shrubbery which at maturity will provide adequate screening of the utility structures. | To provide less than three feet of landscaping, consisting of a trellis structure supporting hanging vines, for the screening for a utility box. | Denial |

ANALYSIS

- **Site Plan**

The proposed changes to the site include the addition of a drive-through along the east and north sides of the building, with the building moved approximately eight feet to the south and 1.5 feet to the west to accommodate the drive lane. The entrance to the drive-through is located on the east side of the building; larger vehicles will have difficulty navigating the sharp turns associated with the drive-through. The exit for the drive-through is located at the northwest corner of the building, and creates a potentially unsafe condition by channeling additional vehicles into a dead-end parking area that does not provide adequate space to turn a vehicle around unless there is an open parking space to facilitate the maneuver.

The proposed building is approximately 66 square feet larger than the previously approved building, a result of the addition of a 30 square-foot fire riser room at the southeast corner of the building, and a 36 square-foot drive-up window on the north side of the building. The additional building area will not significantly impact the subject site.

The previously approved site plan depicted 31 parking spaces, with two handicap spaces and one loading zone. The proposed site will provide 32 parking spaces, with three handicap spaces and one loading zone; two of the three handicap spaces do not have access aisles on both sides of the parking spaces as required by Title 19.10, and a condition has been added to require compliance with the standards.

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- **Landscape Plan**

The landscape plan is similar to the previously approved plan, but the addition of the drive-through has increased the number of parking lot trees required to ten as a result of the additional landscape islands created. A condition has been added to require the correct number of trees and shrubs.

A large utility box is located in the landscape buffer at the northeast corner of the site, adjacent to Craig Road. A minimum three-foot width of landscaping is required to screen the box from view from the public right-of-way. The proposed screening, consisting of a trellis covered in hanging Honeysuckle vines is not adequate to meet the requirement, and the landscaping depicted in front of the box in submitted plans cannot be accommodated within the pedestal area that supports the utility box as it is constructed; therefore, a Waiver is required. Staff cannot support this request as the utility box is elevated above the sidewalk and is prominently visible from the public right-of-way.

- **Elevations**

The elevations remain very similar to the previously approved elevations, with the exception of the north building façade. The north façade, adjacent to Craig Road, has had a drive-up window added. Even though the window area pops out from the rest of the building, the limited window area of the façade gives it a plain, unremarkable appearance. Additional embellishment or architectural features would be desirable for this façade as it will be visible from the right-of-way.

In addition, the overall height of the building has been increased by one foot, which will not significantly impact the subject site or any surrounding developments.

FINDINGS

The following findings must be made for an SDR:

1. **The proposed development is compatible with adjacent development and development in the area;**

The proposed development is compatible with adjacent development with regards to the uses proposed; however, the layout of the development is not compatible with the adjacent development and development in the area.

2. **The proposed development is consistent with the General Plan, this Title, the Design Standards Manual, the Landscape, Wall and Buffer Standards, and other duly-adopted city plans, policies and standards;**

The proposed development is consistent with the General Plan, but is not consistent with Title 19, as is evidenced by the need for a Waiver of required screening for a utility box.

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- 3. Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;**

Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic. On-site circulation is not adequate in that vehicles, especially larger vehicles, will have trouble navigating the turns associated with the drive-through. The drive-through exit is located at the end of a parking field that dead-ends, creating a bottleneck for vehicles exiting the drive-through, as well as vehicles trying to enter, exit and turn around in the parking area.

- 4. Building and landscape materials are appropriate for the area and for the City;**

The building materials are as previously approved. Landscape materials, as conditioned, are appropriate for the area and for the city.

- 5. Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;**

The building elevations are almost identical to the previously approved elevations, with the exception of the north elevation. The north elevation, which is adjacent to Craig Road, is not aesthetically pleasing or compatible with development in area.

- 6. Appropriate measures are taken to secure and protect the public health, safety and general welfare.**

The proposed development is subject to permit review and inspection; therefore, appropriate measures will be taken to protect the health, safety and general welfare.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 1

SENATE DISTRICT 4

NOTICES MAILED 150

APPROVALS 0

PROTESTS 1